

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ANTHONY PELAYO,

11 Petitioner,

v.

12 UNITED STATES OF AMERICA,

13 Respondent.

CASE NO. C24-0815-JCC

MINUTE ORDER

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15 The following Minute Order is made by direction of the Court, the Honorable John C.
16 Coughenour, United States District Judge:

17 This matter comes before the Court on Petitioner's motion to vacate, set aside, or correct
18 his sentence, under 28 U.S.C. § 2255 (Dkt. No. 1). Before directing service and answer to a
19 habeas corpus petition, the Court must determine whether the motion, the files, and the records
20 of the case "conclusively show that the prisoner is entitled to no relief." 28 U.S.C. § 2255(b).
21 The Court has reviewed the record, which does not conclusively show that Petitioner is entitled
22 to no relief. Therefore, service is proper as to Petitioner's habeas petition. *See* 28 U.S.C.
23 § 2255(b).

- 24 1. The Clerk is DIRECTED to send a copy of this order to Petitioner.
25 2. If not previously accomplished, electronic posting of this order and petition shall
26 effect service upon the United States Attorney of copies of the § 2255 motion and of

- 1 all documents in support thereof.
- 2 3. Within 45 days after such service, the United States shall file and serve an answer in
3 accordance with Rule 5 of the Rules Governing Section 2255 Cases in United States
4 District Courts. As part of such answer, the United States should state its position as
5 to whether an evidentiary hearing is necessary, whether there is any issue as to abuse
6 or delay under Rule 9, and whether Petitioner's motion is barred by the statute of
7 limitations.
- 8 4. On the face of the answer, the United States shall note the answer for consideration
9 by the Court pursuant to LCR 7(d), and the Clerk shall note the answer accordingly.
10 Petitioner may file and serve a reply to the answer no later than that noting date.

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12 DATED this 15th day of August 2024.

13 Ravi Subramanian
Clerk of Court

14 s/Kathleen Albert
15 Deputy Clerk